



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA-R03-OAR-2013-0090; FRL- 9908-88-Region-3]

**Approval and Promulgation of Air Quality Implementation Plans; West Virginia;
Approval of the Redesignation Requests and the Associated Maintenance Plans of the
Charleston Nonattainment Area for the 1997 Annual and the 2006 24-Hour Fine
Particulate Matter Standards**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving the State of West Virginia's requests to redesignate to attainment the Charleston nonattainment area (hereafter "the Charleston Area" or "the Area") for both the 1997 annual and the 2006 24-hour fine particulate matter (PM_{2.5}) National Ambient Air Quality Standards (NAAQS or standards). EPA is also approving as a revision to the West Virginia State Implementation Plan (SIP), the associated maintenance plans to show maintenance of the 1997 annual and the 2006 24-hour PM_{2.5} NAAQS through 2025 for the Area. West Virginia's maintenance plans include insignificance findings for the mobile source contribution of PM_{2.5} and nitrogen oxides (NO_x) emissions to the Area for both the 1997 annual and 2006 24-hour PM_{2.5} standards, which EPA agrees with and is approving for transportation conformity purposes. In addition, EPA is approving the 2008 emissions inventory for the Area for the 2006 24-hour PM_{2.5} NAAQS. These actions are being taken under the Clean Air Act (CAA).

DATES: This final rule is effective on [insert date 30 days from date of publication].

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA-

R03-OAR-2013-0090. All documents in the docket are listed in the www.regulations.gov website. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the West Virginia Department of Environmental Protection, Division of Air Quality, 601 57th Street SE, Charleston, West Virginia 25304.

FOR FURTHER INFORMATION CONTACT: Rose Quinto, (215) 814-2182, or by e-mail at quinto.rose@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On December 6, 2012, the West Virginia Department of Environmental Protection (WVDEP) formally submitted a request to redesignate the Charleston Area from nonattainment to attainment for the 1997 annual and the 2006 24-hour PM_{2.5} NAAQS. Concurrently, WVDEP submitted maintenance plans as SIP revisions to ensure continued attainment of the standards throughout the Area over the next 10 years. The December 6, 2012 submittal also includes a 2008 comprehensive emissions inventory for PM_{2.5}, sulfur dioxide (SO₂) and NO_x for the 2006 24-hour PM_{2.5} NAAQS, which WVDEP supplemented on June 24, 2013 to include emissions of

volatile organic compounds (VOC) and ammonia (NH₃). The Charleston Area is comprised of Kanawha and Putnam Counties.

On January 24, 2014 (79 FR 4121), EPA published a notice of proposed rulemaking (NPR) for the State of West Virginia. In the NPR, EPA proposed approval of West Virginia's redesignation requests for the Charleston Area for the 1997 annual and 2006 24-hour PM_{2.5} NAAQS. EPA also proposed approval of the associated maintenance plans as SIP revisions for the 1997 annual and 2006 24-hour PM_{2.5} standards, which included insignificance determinations for PM_{2.5} and NO_x for both standards for purposes of transportation conformity. Also, EPA proposed approval of the 2008 comprehensive emissions inventory for the 2006 24-hour PM_{2.5} standard to meet the requirement of section 172(c)(3) of the CAA. EPA proposed to find that the Area continues to attain both standards.

In the NPR, EPA addressed the effects of two decisions of the United States Court of Appeals for the District of Columbia (D.C. Circuit Court): The D.C. Circuit Court's August 21, 2012 decision to vacate and remand to EPA the Cross-State Air Pollution Control Rule (CSAPR); and the D.C. Circuit Court's January 4, 2013 decision to remand to EPA two final rules implementing the 1997 annual PM_{2.5} standard. Specific details of West Virginia's submittals and the rationale for EPA's proposed actions are explained in the NPR and will not be restated here. No public comments were received on the NPR.

II. Final Action

EPA is taking final actions on the redesignation requests and SIP revisions for the Charleston

Area submitted by the State of West Virginia on December 6, 2012 for the 1997 annual and 2006 24-hour PM_{2.5} NAAQS. First, EPA is approving West Virginia's redesignation requests for the Charleston Area for the 1997 annual and 2006 24-hour PM_{2.5} NAAQS, because EPA has determined that the requests meet the redesignation criteria set forth in section 107(d)(3)(E) of the CAA for these NAAQS. Second, EPA is finding that the Charleston Area is attaining and will continue to attain both the 1997 annual and 2006 24-hour PM_{2.5} NAAQS. Third, EPA is approving the associated maintenance plans for the Area as revisions to the West Virginia SIP for the 1997 annual and 2006 24-hour PM_{2.5} NAAQS because they meet the requirements of section 175A of the CAA. EPA is also approving for both standards West Virginia's transportation conformity insignificant determinations for PM_{2.5} and NO_x emissions for the Area. Finally, EPA is approving the 2008 comprehensive emissions inventory for the Area for the 2006 24-hour PM_{2.5} NAAQS as a revision to the West Virginia SIP because it meets the requirements of section 172(c)(3) of the CAA. Approval of these redesignation requests will change the official designations of the Charleston Area from nonattainment to attainment for the 1997 annual and the 2006 24-hour PM_{2.5} NAAQS.

III. Statutory and Executive Order Reviews

A. General Requirements

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those

imposed by state law. For that reason, this action:

- is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [Insert date 60 days from date of publication of this document in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be

filed, and shall not postpone the effectiveness of such rule or action. This action approving the redesignation requests, the maintenance plans, the comprehensive emissions inventory and transportation conformity insignificance determination for the Charleston Area for the 1997 annual and the 2006 24-hour PM_{2.5} NAAQS, may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

40 CFR Part 81

Air pollution control, National parks, Wilderness areas

Authority: 42 U.S.C. 7401 et seq.

Dated: March 13, 2014.

W. C. Early,
Acting Regional Administrator,
Region III.

40 CFR parts 52 and 81 are amended as follows:

PART 52 - APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart XX– West Virginia

2. In § 52.2520, the table in paragraph (e) is amended by adding an entry for the 1997 Annual and the 2006 24-Hour PM_{2.5} Maintenance Plan for the Charleston Area at the end of the table to read as follows:

§ 52.2520 Identification of plan.

* * * * *

(e) ***

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional Explanation
* * * * *				
1997 Annual and 2006 24-Hour PM _{2.5} Maintenance Plan for the Charleston Area	Kanawha and Putnam Counties	12/6/12 6/24/13	<u>[Insert Federal Register publication date]</u> <u>[Insert page number where the document begins]</u>	See §52.2526(j) and §52.2531(g)

3. Section 52.2526 is amended by adding paragraph (j) to read as follows:

§ 52.2526 Control strategy: Particular matter.

* * * * *

(j) EPA approves the maintenance plan for the Charleston PM_{2.5} Nonattainment Area (Kanawha and Putnam Counties). The maintenance plan establishes a determination of insignificance for PM_{2.5} and NO_x for transportation conformity purposes.

4. Section 52.2531 is amended by adding paragraph (g) to read as follows:

§ 52.2531 Base year emissions inventory.

* * * * *

(g) EPA approves as a revision to the West Virginia State Implementation Plan the comprehensive emissions inventory for the Charleston fine particulate matter (PM_{2.5}) nonattainment area submitted by the West Virginia Department of Environmental Protection on December 6, 2012 and June 24, 2013. The emissions inventory includes emissions estimates that cover the general source categories of point sources, nonroad mobile sources, area sources, onroad mobile sources and biogenic sources. The pollutants that comprise the inventory are nitrogen oxides (NO_x), volatile organic compounds (VOC), PM_{2.5}, ammonia (NH₃), and sulfur dioxide (SO₂).

PART 81 - DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

5. The authority citation for Part 81 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

6. In §81.349, the tables for West Virginia – PM_{2.5} (Annual NAAQS) and West Virginia – PM_{2.5} (24-hour NAAQS) are amended by revising the entries for the Charleston Area to read as follows:

§ 81.349 **West Virginia.**

* * * * *

West Virginia –PM_{2.5} (Annual NAAQS)

Designated Area	Designation ^a	
	Date ¹	Type
* * * * *	* *	*
Charleston, WV:		
Kanawha County	<u>[Insert Federal Register publication date]</u>	Attainment
Putnam County	<u>[Insert Federal Register publication date]</u>	Attainment
* * * * *	* *	*

^a Includes Indian County located in each county or area, except as otherwise specified.

¹This date is 90 days after January 5, 2005, unless otherwise noted.

West Virginia –PM_{2.5} (24-hour NAAQS)

Designated Area	Designation for the 1997 NAAQS ^a		Designation for the 2006 NAAQS ^a	
	Date ¹	Type	Date ²	Type
* * * * *				
Charleston, WV:				
Kanawha County		Unclassifiable/ Attainment	<u>[Insert Federal Register publication date]</u>	Attainment
Putnam County		Unclassifiable/ Attainment	<u>[Insert Federal Register publication date]</u>	Attainment
* * * * *				

^a Includes Indian County located in each county or area, except as otherwise specified.

¹ This date is 90 days after January 5, 2005, unless otherwise noted.

² This date is 30 days after November 13, 2009, unless otherwise noted.

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